MONTANA ELECTIONS

Conducting a Recount

A high-level guide for county election administrators

Based on Title 13, chapter 16, MCA and the Montana Recount Guide. Not legal advice.

Introduction

In Montana, a recount is an administrative process described in Title 13, Chapter 16, MCA, in which a recount board manually re-tabulates validly cast ballots for a specific office or ballot issue to verify the accuracy of the original results and certify the official outcome.

Title 13, chapter 16, MCA

Five ways a recount happens

Type	What triggers it	Who starts it
Tie vote	A tie certified at the canvass	Automatic, no petition
Close margin	Margin within the statutory limit	Petition by the defeated candidate or by electors
Candidate with bond	Margin over ¼ of 1%, up to ½ of 1%	Defeated candidate posts a bond
Canvass board	Votes exceed voters, or an error affects totals	Board of canvassers requires it
Court order	Judge finds probable cause of a miscount	Candidate or elector applies to district court

13-16-201, 13-16-203, 13-16-211 and 13-16-301, MCA

Tie votes

1. The board of county canvassers certifies the tie to the election administrator.
2. The administrator proceeds as if a petition had been filed and immediately notifies the recount board. No petition is needed.
3. If the recount still shows a tie, it is resolved under Title 13, chapter 16, part 5, MCA. School election ties follow 20-20-418, MCA.

13-16-203, 13-16-204 and 13-16-501 through 13-16-506, MCA

Checking the margin

The formula

Winner's votes minus loser's votes, divided by all votes cast in the race.

A result of 0.0025 (0.25%) or less qualifies for a petition recount.

Races with one county only: a margin of 10 votes or fewer also qualifies.

Example

5,000 votes cast. Margin of 11 votes.

11 ÷ 5,000 = 0.0022, or 0.22%.

That is within 0.25%, so the race qualifies.

Hypothetical numbers for illustration.

Always use canvassed results, not unofficial results.

13-16-201(1) and 13-15-208, MCA

Petition for a recount

Candidate races

The defeated candidate files a verified petition within **5 days** after the official canvass.

Single-county races: file with the county election administrator.

Statewide, multicounty, legislative and district court races: file with the Secretary of State.

Ballot issues

Verified petition within **5 days** after the canvass, signed by enough electors:

10 for a county, municipal or district question

100 for a state issue, from at least 5 counties

25 for a multicounty district issue, from at least 2 counties

Recount petition forms on the Secretary of State website. School races are filed with the school election filing officer.

13-16-201(1) and (2), MCA

Candidate recount with a bond

When

Margin is more than ¼ of 1%, but not more than ½ of 1%, of the votes cast for the position.

The 10-vote alternative does not apply.

The bond

The administrator sets an amount sufficient to cover all recount costs in each county involved.

The candidate posts it with the election administrator of the county where the candidate resides.

Then

Once the petition is filed and the bond posted, the recount board in each affected county meets and recounts.

13-16-211, MCA

Required by canvassers or ordered by a court

Canvassing board

Votes returned exceed the electors or persons who voted, or an error affects vote totals.

The board investigates right away, and the investigation must be done within **2 days**.

The board may require a recount of a race, issue or precinct.

District court

A candidate or elector applies within **5 days** after the canvass.

The judge hears the application within **5 days**.

If there is probable cause, the recount board assembles within **5 days** of the order, at the time and place the order sets.

13-15-403(4), 13-16-201(1)(f), 13-16-301, 13-16-302 and 13-16-305, MCA

Notice and timeline

Canvass

Within 14 days after the election.

Petition

Filed within 5 days after the canvass.

Notice

Administrator notifies the recount board immediately.

Recount

Board convenes within 5 days of notice.

Immediately after the recount

The county recount board recanvasses the corrected returns and prepares a corrected abstract of the votes.

Statewide and multicounty petitions: the Secretary of State notifies each affected county.

Tip: warn the recount board before a petition arrives.

13-16-201(3) and 13-16-204, MCA. Count calendar days.

Who pays for a recount

Recount	Cost falls on
Petition or tie (13-16-201)	The county. The state covers Secretary of State and state canvass board costs.
School election	The school district
Candidate with bond (13-16-211)	The petitioning candidate, covered by the bond
Court ordered	The applicant deposits the probable cost in cash, as the court sets. Refund rules are in 13-16-307.

13-16-205, 13-16-211, 13-16-306, 13-16-307 and 20-20-107, MCA

The recount board and who may attend

Recount board

Three members of the governing body. If there are more than three, the presiding officer appoints three.

If a member cannot attend, the remaining members fill the vacancy with a county officer.

The election administrator is the board's secretary.

Entitled to be present

Recount board members

The election administrator and assisting staff

Each candidate or the candidate's representative

Media

Other observers use a public viewing area.

13-16-101 and 13-16-411, MCA

Where, and how to give notice

Location

The board convenes at the usual meeting place of the governing body. A court order may set the time and place.

Pick a room with space for everyone entitled to attend, media included.

Public notice

The recount is public. Open meeting laws apply.

Give notice of the date, time and place, and work with the candidates involved to set them.

Reach out to every interested party.

13-16-204, 13-16-411 and 13-15-206(8), MCA; Title 2, chapter 3, MCA

Preparing for the recount

Supplies

- Pens or pencils
- Ballots for every precinct involved
- Resolution board logs and remade original ballots
- Write-in ballots
- Security seal log and seals
- Containers for resealing, with challenged ballots sealed separately

Documents

- Montana Recount Guide, including the valid vote guide
- Title 13, chapter 16, MCA
- Written instructions for participants
- Tally sheets
- Log of Challenges and challenged ballot labels
- Recount Summary and Certification Report

Give the board the valid vote guide for any questioned ballot.

Security and chain of custody

Keep voted ballots and materials sealed and secure until the recount.

Deliver sealed containers unopened to the board. A board member opens each package.

Reseal in the presence of the election administrator and the board.

Record every seal change on the chain-of-custody form. Best practice: two election officials present whenever materials are sealed or unsealed.

13-16-412, 13-16-417 and 13-15-301, MCA; ARM 44.3.2904

Counting, step by step

1
Everyone signs in, including staff and media.

2
Read the instructions aloud.

3
Sort ballots into a pile per candidate, plus a pile for all others.

4
Cross-stack in piles of 25.

5
One member reads, two record on tally sheets.

Compare the tallies. If they differ, count again until they match.

13-15-206 and 13-16-412, MCA

Questionable ballots and valid votes

Voter intent

A majority of the board must agree the voter's intent is clear before a vote counts.

Give the board the valid vote guide for any questioned ballot.

Unclear ballots

Ballots the board finds questionable, but no candidate challenges, are set aside for the board to review.

Remade ballots

Where a transferred copy differs from the voter's original, the original ballot counts.

13-15-206, 13-15-201 and ARM 44.3.2402 through 44.3.2406

Challenges and objections

The rules

Only a candidate or representative may object.

Objections are made ballot by ballot, never automatic or frivolous.

The challenger states the reason.

Record it

Log each challenge and label the ballot with the precinct, the challenger, the reason and the outcome.

Reason format: *Not Candidate A, is Undervote.*

Seal challenged ballots separately.

13-15-206(8), MCA

After the count

Match ballot totals to tally totals, then complete and sign the tally sheets and the Recount Summary and Certification Report.

At least two board members sign the certificate, attested under seal.

Reseal ballots and materials, and record each seal on the log.

Multicounty races: send a duplicate to the Secretary of State by certified mail.

Prepare a corrected canvass report. The recount result is the official result.

13-16-416, 13-16-417 and 13-16-418, MCA

Recanvass immediately

One county

Office or ballot issue voted in only one county, or a precinct office

The county recount board recanvasses the corrected returns and prepares a corrected abstract of the votes.

13-16-418(1)(e), MCA

More than one county

Congressional, legislative, district court judge, or multicounty office or issue

The recount certificate goes to the Secretary of State. The Board of State Canvassers recanvasses the returns.

13-16-418(1)(d) and 13-16-419, MCA

The County Recount Canvass Report and County Recount Certificate are printed and signed from the voter registration system.

13-16-418 and 13-16-419, MCA

Practical tips

Communicate

Share the schedule early so everyone with a right to attend can. No candidate gains an advantage.

Plan ahead

Build a timeline of every date, and warn the board before a petition arrives.

Ask for help

Consult your county attorney and the Secretary of State. Other administrators can share procedures.

Use canvassed results only when checking margins.

Where to look next

- Montana Recount Guide, with logs, labels and the valid vote guide
- Title 13, chapter 16, MCA: Recounts and Tie Votes
- ARM Title 44, chapter 3, subchapters 24 and 29

This overview is not legal advice. Consult your county attorney.

Appendix: sample forms

Print these before the recount and replace the bracketed text with the office or ballot issue, election name and date, and county. Full-size versions are in the Montana Recount Guide.

All forms must be prepared before the recount and completed during the recount.

- Tally sheet
- Log of persons present
- Log of activity
- Log of challenges and label

- Report and Certification of Recount, Part 1: Activity Log
- Report and Certification of Recount, Part 2: Report and Certification

Montana Recount Guide, Appendices A and B

Tally sheet

[Office or Ballot Issue] Recount. [Election name and date]. District: ____ County: ____. Tally thus: |||| (each group of five = 5)

Candidate / Choice	Tally 10	Tally 20	Tally 30	Tally 40	Tally 50	Tally 60	Tally 70	Tally 80	Tally 90	Tally 100	Subtotal
For [Office or Ballot Issue]:											
[Candidate or choice 1]											
[Candidate or choice 2]											
[Candidate or choice 3]											
Overvote											
Undervote											
Write-in											

Judge Signature: _____

Log of persons present

[Office or Ballot Issue] Recount. [Election name and date]

Name	Title	Representing (County, Petitioner, Nominee/Electee, Ballot Issue Proponent/Opponent, Media, Other)

Appendix B, Log of Persons Present for Recount. The full form has more rows.

Log of activity

[Office or Ballot Issue] Recount. [Election name and date]

Date and Time	Description of Activity	Reported by	Additional Notes

Appendix B, Log of Activity. The full form has more rows.

Log of challenges and ballot label

Number	Precinct / District / Ward	Name of Challenger	Reason for challenge	Outcome of Challenge	Notes or other activity
			Not ____, is ____.	Successful Unsuccessful	
			Not ____, is ____.	Successful Unsuccessful	

Label for challenged ballots

Challenged Ballot # ____ Pct/District/Ward: ____ Name of Challenger: ____

Reason for Challenge: Not ____, is ____. Outcome of Challenge: ☐ Successful ☐ Unsuccessful

Print on adhesive labels and attach one to each challenged ballot, or write the same information by hand on the ballot.

Report and Certification, Part 1: Activity Log

County: ____ Recount race/issue: ____. Also lists everyone present: name, title, and who they represent.

No.	Precinct / District / Ward	Challenged by petitioner	Challenged by electee or issue proponent/opponent	Disposition	Notes or other activity
1	1A	W-1		Unsuccessful	Erasure attempt
2	1A		J-1	Unsuccessful	Write-in oval marked and printed candidate written in
3	1A				Transcribed UOCAVA ballot reviewed by Petitioner and Electee
4					

Appendix A, Part 1. Rows 1 to 3 are examples; the full form has 10 rows.

Report and Certification, Part 2

STATE OF MONTANA, County of ____. We hereby certify that this is a full, true and complete report of the recount of the votes cast in each precinct/ward/district, and we certify the result of the recount under 13-16-418, MCA.

Precinct	Candidate / Ballot Issue Choice	Votes Before Recount (Official Canvass)	Votes After Recount

Witness my hand and the seal of said County, this ___ day of _____, 20__. County Recount Board: at least two members must sign (13-16-418(1)(b), MCA). Attest: Election Administrator (SEAL).

Appendix A, Part 2. The full form has 8 result rows and 3 signature lines.